

3. On or about August 11, 2008, I received a copy of the papers filed by Defendant Anthony Masciangelo (“Masciangelo”) in support of the instant Motion to Dismiss this action as against both Defendants based in part upon their alleged authorization to use Shanken’s intellectual property (the “Motion”).

4. After reviewing the Motion papers, I called Cigar500.com Inc.'s ("Cigar500") counsel Lisa T. Simpson, Esq., of the firm of Orrick, Herrington & Sutcliffe ("Orrick"). I asked Ms. Simpson whether she was aware that Masciangelo had filed a motion on his own seeking relief on behalf of Orrick's client Cigar500. She responded that she was aware of the filing.

5. I then asked Ms. Simpson if she intended to withdraw or disclaim the Motion with respect to Cigar500, for which her firm is still counsel of record. She stated that she did not intend to withdraw or disclaim the Motion. She also stated that Orrick had renewed its motion for permission to withdraw as counsel and that it intended to proceed with that motion.

6. It bears noting that the Motion papers themselves bear a "document number" in the footer of each page that begins with "OHS"—a plain reference to the fact that the document originated at Orrick, Herrington & Sutcliffe. Accordingly, it appears that Orrick, as counsel for Cigar500, had a hand in the filing of this Motion but was unwilling to sign it, leaving it to Masciangelo to sign the Motion *pro se*.

7. Shanken's Memorandum of Law in Opposition to the Motion references several documents, which are annexed hereto.

8. A true and correct copy of the Amended Complaint filed in this action on or about June 21, 2008 (with Exhibits) is annexed hereto as Exhibit A.

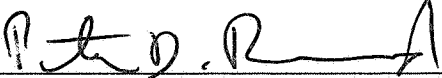
9. A true and correct copy of the Reply filed by Masciangelo in support of an earlier motion to dismiss (without exhibits) is annexed hereto as Exhibit B.

10. A true and correct copy of Orrick's August 14, 2008 motion to withdraw as counsel for Cigar500 is annexed hereto as Exhibit C.

11. A true and correct copy of the Court's July 7, 2008 Opinion and Order denying Defendants' earlier Motion to Dismiss is annexed hereto as Exhibit D.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 2, 2008
New York, New York


Peter D. Raymond, Esq.